

1 NELSON E. ROTH, SBN 67350
ner3@cornell.edu
2 CORNELL UNIVERSITY
300 CCC Building
3 Garden Avenue
Ithaca, New York 14853-2601
4 Telephone: (607)255-5124
Facsimile: (607)255-2794

BERT H. DEIXLER, SBN 70614

6 | bdeixler@proskauer.com

CHARLES S. SIMS, New York Attorney Registration No. 1535640

7 admitted *pro hac vice*

csims@proskauer.com

8 CLIFFORD S. DAVIDSON, SBN 246119
cdavidson@proskauer.com

9 PROSKAUER ROSE LLP

2049 Century Park East, 32nd Floor

10 | 20th Century Park East, Suite 1
Los Angeles, CA 90067-3206

Telephone: (310) 557-2900

11 | Facsimile: (310) 557-2193

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

15 KEVIN VANDGINDEREN.

16 Plaintiff,

17

v.

18 CORNELL UNIVERSITY,

19 Defendant.

Case No. 07-CV-2045-BTM-JMA

{ Hon. Barry T. Moskowitz

} DECLARATION OF VALERIE
CROSS DORN IN FURTHER
SUPPORT OF DEFENDANT'S
REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF SPECIAL MOTION
TO STRIKE PLAINTIFF'S
COMPLAINT PURSUANT TO
SECTION 425.16 OF THE
CALIFORNIA CODE OF CIVIL
PROCEDURE

[Per chambers, no oral argument unless requested by the Court]

[Special Motion to Strike and Request
for Judicial Notice filed concurrently]

Hearing Date: December 21, 2007
Time: 11:00 a.m.
Place: Courtroom 15

Action Filed: October 1, 2007

DECLARATION OF VALERIE CROSS DORN

I, Valerie Cross Dorn, declare as follows:

1. I am an attorney admitted to practice before the courts of the State of New York, among others, and I serve as Associate University Counsel at Cornell University in Ithaca, New York. I have personal knowledge of the facts set forth herein through my position with Cornell University.

2. I submit this Declaration in further support of Defendant's Request for Judicial Notice in Support of Special Motion to Strike ("Request for Judicial Notice") and to correct a clerical error contained in Exhibit D attached thereto. If called as a witness, I could and would testify competently to the following.

3. After the filing of Defendant's motion papers on November 2, 2007, I noticed an error in Exhibit D attached to Defendant's Request for Judicial Notice. The exhibit erroneously contained the Affidavit of Nelson E. Roth in Support of Application to Unseal Record that was submitted in Ithaca City Court on October 5, 2007. However, Exhibit D should have contained the Affidavit of Nelson E. Roth in Support of Application to Unseal Record that was submitted in the County Court of Tompkins County on October 15, 2007.

4. Substantively, the affidavits are virtually identical. A clerical error resulted in the scanning of the wrong affidavit to attach to Defendant's motion papers as part of Exhibit D. All other parts of Exhibit D are accurate. A true and correct copy of the corrected Exhibit D is attached hereto as Corrected Exhibit D.

5. I took immediate steps to remedy any confusion by re-serving Plaintiff with the Order to Show Cause papers in the pending Tompkins County Court application returnable November 16, 2007, and by filing this Declaration with Corrected Exhibit D in this Court.

I declare under penalty of perjury under the laws of the State of California, and the United States of America that the foregoing is true and correct

111

1 and that this declaration was executed this 7th day of November, 2007, at Ithaca,
2 New York.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



Valerie Cross Dorn